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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Naoki Kimura et al.

Art Unit : 1647

Serial No. : 09/855,266

Examiner : J. Seharaseyon

Filed : May 14, 2001

Title : NOVEL SECRETORY MEMBRANE PROTEIN

RECEIVED  
OCT 22 2002  
TECH CENTER 1600/2333Commissioner for Patents  
Washington, D.C. 20231.RESPONSE TO RESTRICTION REQUIREMENT

Responsive to the action mailed September 12, 2002, applicant elects the invention of Group I, claims 1-8, and the species of SEQ ID NO:2. Claims 1-8 read on the elected species. The species election requirement is respectfully traversed.

The Examiner argues as follows:

The claims of Groups I (*sic*) are drawn to multiple polypeptide sequences (SEQ ID NO:1-3). Each of the different polypeptide sequences are independent and distinct because no common structural or functional properties are shared. . . . This requirement is made under 1192 OG 68 Notice (November 19, 1996), as examination of more than one sequence in one application would result in an undue burden on the PTO.

Applicants note that, of SEQ ID NOS:1-3, only SEQ ID NO:1 and 2 are polypeptide sequences. SEQ ID NO:2 differs from SEQ ID NO:1 only in that SEQ ID NO:2 lacks an N-terminal signal peptide sequence (i.e., SEQ ID NO:1 comprises SEQ ID NO:2). SEQ ID NO:3 is a cDNA sequence that encodes SEQ ID NO: 1. Thus, the sequences recited in the claims are structurally and functionally related and it would not be an undue burden to the Examiner to search the elected claims. This is clearly not the situation envisioned by 1192 OG 68, which was promulgated to deal with applications that claim numerous (i.e., more than 10) unrelated

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sequences. Accordingly, Applicants respectfully request that the species election requirement be withdrawn.

Applicants reserve the right to ask for rejoinder of claims in Group III, of a scope identical to the presently elected polypeptide claims, once the elected claims are deemed allowable ( M.P.E.P. § 821.04).

Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: October 11, 2002

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